IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

MONDAY, THE 19TH FEBRUARY 2007 / 30TH MAGHA 1928

CRP.No. 172 of 2002(D)

CC.747/1973 of TALUK LAND BOARD, ALATHUR
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REVN. PETITIONERS: PETITIONER:
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1. K.C.MOHAMMED HANEEFA, AGED 62 YEARS,
   S/O. CHINNAPPA RAWTHER, KULAVAN MUKKIL,
   KOYALMANNAM AMSOM & DESOM, ALATHUR TALUK

2. N.V.MADHAVI, AGED 56 YEARS,
   RETIRED TEACHER, D/O. IKKALI VARASSIER,
   W/O. K.V.RAMACHANDRA WARRIOR, PREMA NIVAS,,
   THANNIRANKAD, P.O. PALLAM-CHATHANOOR, ALATHOOR
   TALUK.

3. P.V.SANKARA WARRIER, AGED 75 YEARS,
   S/O. LATE IKKALIKUTTY VARASSIER,PATHEESWARAM KALAM
   P.O.PALLAMCHATHANOOR, ALATHOOR TALUK.

BY ADV. SRI.A.K.SRINIVASAN
SRI.N.S.MOHAMMED USMAN
SRI.A.S.BENOY
SRI.MATHEW JOHN

RESPONDENTS:
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1. THE TALUK LAND BOARD.

2. THE TAHSILDAR, ALATHUR.

3. STATE OF KERALA,
   REP. BY THE CHIEF SECRETARY TO GOVERNMENT,
   THIRUVANANTHAPURAM.

4. P.C.KRISHNAN NAMBOODIRIPAD,POOMULLI MANA
   VIYYUR, THRISSUR.

R1 TO R3 BY GOVERNMENT PLEADER SRI SHYSON P.MANGUZHA

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 19/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON CMP.NO.369/2002 IN CRP.NO.172/2002

DISMISSED

19/2/2007 Sd/- P.R.RAMAN, JUDGE

P.R.RAMAN,J.

C.R.P.NO.172 OF 2002

Dated this the 19th day of February, 2007

O R D E R

Petitioners sought to be impleaded in the ceiling case, C.C.No.747/73 on the file of the Taluk Land Board, Alathur. It was a ceiling case relating to one P.C. Krishnan Namboodirippad as the land holder. The prime contention of the petitioners is that they are bona fide purchasers of the land in their possession obtained as per registered sale deed executed by the land holder as the assignee. But the Taluk Land Board did not go into the details of the case as the transfer was held to be invalid being executed after 1/1/1970. The present C.R.P. is against the said order. In the course of hearing, the learned counsel for the petitioner contended

that Section 7E as introduced by Act 21/2006 has conferred a new right of deemed tenancy and validates the transaction. Section 7E reads as follows:

> "7E. Certain persons who acquired lands to be deemed tenants. Notwithstanding anything to the contrary contained in Section 74 or Section 84 or in any other provisions of this Act, or in any other law for the time being in force or in any contract, custom or usage, or in any judgment, decree or order of any court, tribunal or other authority, a person who at the commencement of the Kerala Land Reforms (Amendment) Act, 2005 is in possession of any land, not exceeding four hectares in extent, acquired by him or his predecessor-in-interest by way of purchase or otherwise on payment of consideration from any person holding land in excess of the ceiling area, during the period between the date of commencement of the Kerala Land Reforms Act, 1963 (1 of 1964) and the date of commencement of the Kerala Land Reforms (Amendment) Act, 2005, shall be deemed to be a tenant."

2. Thus, the effect of the above provision

is that notwithstanding any judgment/order passed by the Tribunal or authority or notwithstanding anything contained in any other law, a person who is in possession of any land not exceeding four hectares in extent, acquires the land by him or his predecessor-in-interest by way of purchase or otherwise on payment of consideration from any person holding land in excess of the ceiling area will get the status of a deemed tenant entitled to fixity of tenure. Therefore, the ground on which the impleading petition was rejected has to be set aside in the light of the new provisions contained in Section 7E and the matter has to be adjudged on merits applying the benefit, if any, conferred as per the above provision.

3. In the circumstances, the order passed by the Taluk Land Board to the extent

that adversely affects the interest of the petitioners is set aside and the matter is remitted to the Taluk Land Board for fresh consideration in accordance with law. It is to be noticed that out of the land said to be in possession of the petitioners, 2.39 acres of land in Sy.Nos.181/1 and 182/5 of Mathur I Village was also included in the surrender order which was stayed by this Court at the time of admission. The said stay order will continue until the disposal of the matter by the Taluk Land Board as directed above. Records if any, received by this Court shall be re-transmitted to the Taluk Land Board forthwith.

C.R.P. is allowed by way of remand.

P.R.RAMAN,
Judge.

kcv.

P.R.RAMAN, J.

C.R.P.NO.172 OF 2002

O R D E R

19th February, 2007